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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-224**

A C C U S A T I O N

13 **SHARON LYNN GLATHE**
14 **AKA SHARON LYNN SENDE**
15 **3105 Avenida Topanga**
Carlsbad, CA 92009

16 **Registered Nurse License No. 336628**

17 **Respondent.**

18
19 **Complainant alleges:**

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about September 30, 1981, the Board of Registered Nursing issued Registered
25 Nurse License Number 336628 to Sharon Lynn Glathe aka Sharon Lynn Sende (Respondent).
26 The Registered Nurse License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on October 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of the crime in
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the
4 qualifications, functions, and duties of the licensee in question.

5 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
6 'registration.'"

7 9. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an
9 application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

11 "..."

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be
14 conclusive evidence thereof.

15 "..."

16 10. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
19 chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
22 administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 "..."

9 11. Section 2765 of the Code states:

10 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge substantially related to the qualifications, functions and duties of a registered nurse is
12 deemed to be a conviction within the meaning of this article. The board may order the license or
13 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
14 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
15 order granting probation is made suspending the imposition of sentence, irrespective of a
16 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
17 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
18 of guilty, or dismissing the accusation, information or indictment."

19 REGULATIONS

20 12. California Code of Regulations, title 16, section 1444, states:

21 "A conviction or act shall be considered to be substantially related to the qualifications,
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
24 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

25 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
26 subdivision (d) of Penal Code Section 11160.

27 "(b) Failure to comply with any mandatory reporting requirements.

28 "(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

13. California Code of Regulations, title 16, section 1445 states:

“ . . .

“(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

“(2) Total criminal record.

“(3) The time that has elapsed since commission of the act(s) or offense(s).

“(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

“(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

“(6) Evidence, if any, of rehabilitation submitted by the licensee.”

COST RECOVERY

14. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(August 18, 2003, Conviction for DUI on July 2, 2003)

15. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f), on the grounds that she was convicted of a crime that is substantially related to the qualifications, functions and duties as a registered nurse. The circumstances are as follows:

a. On August 18, 2003, in a criminal case entitled *The People of the State of California v. Sharon Lynn Glathe*, San Diego Superior Court, North County Division case number CN165124, Respondent was charged with violating Vehicle Code sections 23152, subdivision (a), driving under the influence of alcohol and a drug, and under their combined

1 influence, and Vehicle Code section 23152, subdivision (b) driving with a blood alcohol content
2 (BAC) of more than 0.08 percent. As a result of a plea bargain, Respondent was convicted on her
3 plea of guilty of violating Vehicle Code section 23152, subdivision (b) driving with a BAC of
4 more than 0.08 percent.

5 b. The facts that led to the conviction are that on July 2, 2003, Respondent was stopped
6 in the City of Encinitas for speeding northbound on South Coast Highway 101. The San Diego
7 Sheriff deputy that pulled over Respondent noticed that she was lethargic in her attempt to
8 retrieve her driver's license, smelled strongly of an alcoholic beverage, slurred her words as she
9 spoke to the deputy and would repeat herself when not prompted to do so. Respondent told the
10 deputy that she had been at the Belly Up Tavern in Solana Beach with friends and had three
11 glasses of wine in the past five hours and continued stating she had been drinking only water for
12 the last two hours or so. Respondent told the officer it was 0130 hours when it was 0040 hours.
13 Respondent failed field sobriety tests, and was placed under arrest.

14 c. As a result of the conviction Respondent was sentenced to three (3) years summary
15 probation, ordered to violate no laws, pay various fines and fees, not drive with a measurable
16 amount of alcohol/drugs in her system, submit to any test at the request of a peace officer for
17 detection of alcohol/drugs in her system, not to drink or be under the influence of drugs while
18 driving, complete a First Conviction Program, complete a Mothers' Against Drunk Drivers
19 (MADD) program, not drive without a valid license and liability insurance. Respondent's
20 driver's license was also restricted for 90 days and she was to only drive to and from work,
21 school, court ordered activities and in the course of employment.

22 SECOND CAUSE FOR DISCIPLINE

23 (June 12, 2008, Conviction for DUI on February 29, 2008)

24 16. Respondent is subject to disciplinary action under Code sections 490 and 2761,
25 subdivision (f), on the grounds that she was convicted of a crime that is substantially related to
26 the qualifications, functions and duties as a registered nurse. The circumstances are as follows:

27 a. On June 12, 2008, in a criminal case entitled *The People of the State of California v.*
28 *Sharon Lynn Glathe*, San Diego Superior Court, North County Division case number CN243080,

1 Respondent was convicted by her plea of guilty of violating Vehicle Code section 23152,
2 subdivision (b), driving with more than 0.08 percent BAC and Vehicle Code section 23578,
3 exceeding 0.15 percent BAC (0.17 percent), with a prior DUI conviction within 10 years.

4 b. The facts that led to the conviction are that on February 29, 2008, Respondent called
5 the Carlsbad Police Department to report that she hit a parked vehicle and wanted to report the
6 collision. A Carlsbad Police officer responded to the call and observed that Respondent seemed
7 to be very intoxicated, and had difficulty recalling the events of the collision. Respondent told
8 the officer that she was on her way home from El Torito when she hit a parked car. Respondent
9 was unable to recall the exact location of the collision but told the officer she frequently travels
10 the same route to her house. She believes she hit a parked car as she turned right onto Xana Way
11 from Unicornio Street in Carlsbad. Respondent then told the officer she stopped and found that
12 no one was in the vehicle, looked at the damage and picked up the front bumper which fell off
13 during the collision. Respondent told the officer she did not leave her contact information on the
14 vehicle as she felt uncomfortable leaving her information, so she drove home and contacted the
15 police. The officer noticed that Respondent smelled of an alcoholic beverage, her eyes were red
16 and glassy, her speech was slow and slurred, she showed signs of poor hand-eye coordination,
17 and she was unsteady on her feet. When asked by the officer, Respondent said she had one glass
18 of wine to drink earlier in the evening. When the officer asked Respondent to perform a series of
19 field sobriety tests, she complied, but performed the tests poorly. Respondent refused a PAS test.
20 Respondent was placed under arrest.

21 c. As a result of the conviction, Respondent was sentenced to 5 years summary
22 probation, ordered to serve 96 hours on consecutive weekends with the Vista Sheriff, ordered to
23 violate no laws, pay various fines and fees, complete 3 days of a public service program, adhere
24 to standard alcohol conditions per Vehicle Code section 23600, complete a Multiple Conviction
25 Program, and not drive without a valid license and liability insurance.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Using Alcohol to a Dangerous Extent)**

3 17. Respondent's license is subject to discipline under Code section 2762,
4 subdivision (b), in that Respondent used alcohol to an extent dangerous to herself and other as is
5 set forth in paragraphs 15 and 16, above, which are incorporated by this reference.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Criminal Convictions Involving the Consumption of Alcohol)**

8 18. Respondent's license is subject to discipline under Code section 2762,
9 subdivision (c), in that Respondent was convicted of criminal offenses involving the consumption
10 of alcohol as is set forth in paragraphs 15 and 16, above, which are incorporated by this reference.

11 **PRAYER**

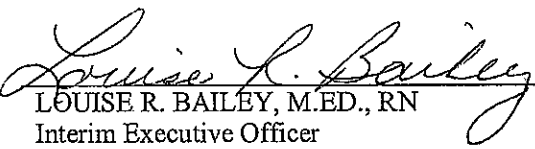
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 336628, issued to
15 Sharon Lynn Glathe aka Sharon Lynn Sende;

16 2. Ordering Sharon Lynn Glathe aka Sharon Lynn Sende to pay the Board of Registered
17 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
18 Business and Professions Code section 125.3;

19 3. Taking such other and further action as deemed necessary and proper.

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21 DATED: 9/13/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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